NORTH CAROLINA REPORTS

VOL. 194

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CASES ARGUED AND DETERMINED

IN THE

SUPREME COURT

Property of NORTH CAROLINA COLLEGE FOR WOMEN Greensboro, N. C.

OF

NORTH CAROLINA

SPRING TERM, 1927
FALL TERM, 1927

REPORTED BY
ROBERT C. STRONG

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5 " "	"	27	"	4 " "	"	57	"
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JUSTICES

OF THE

SUPREME COURT OF NORTH CAROLINA

SPRING TERM, 1927
FALL TERM, 1927

CHIEF JUSTICE:

W. P. STACY.

ASSOCIATE JUSTICES:

W. J. ADAMS,
HERIOT CLARKSON,
GEORGE W. CONNOR,
WILLIS J. BROGDEN.

ATTORNEY-GENERAL:

DENNIS G. BRUMMITT.

ASSISTANT ATTORNEYS-GENERAL:

FRANK NASH,
CHARLES ROSS,
WALTER D. SILER.*

SUPREME COURT REPORTER:

ROBERT C. STRONG.

CLERK OF THE SUPREME COURT:

EDWARD C. SEAWELL.

MARSHAL AND LIBRARIAN:

MARSHALL DeLANCEY HAYWOOD.

---

* Succeeded John H. Harwood, October 8, 1927.

108166

JUDGES

OF THE

SUPERIOR COURTS OF NORTH CAROLINA

EASTERN DIVISION

Name	*District*	*Address*
W. M. Bond	First	Edenton.
M. V. Barnhill	Second	Rocky Mount.
G. E. Midyette	Third	Jackson.
F. A. Daniels	Fourth	Goldsboro.
Romulus A. Nunn	Fifth	New Bern.
Henry A. Grady	Sixth	Clinton.
W. C. Harris	Seventh	Raleigh.
E. H. Cranmer	Eighth	Southport.
N. A. Sinclair	Ninth	Fayetteville.
W. A. Devin	Tenth	Oxford.

SPECIAL JUDGES

Clayton Moore	Williamston.
N. A. Townsend	Dunn.

WESTERN DIVISION

Roy L. Deal	Eleventh	Winston-Salem.
Thomas J. Shaw	Twelfth	Greensboro.
A. M. Stack	Thirteenth	Monroe.
W. F. Harding	Fourteenth	Charlotte.
John M. Oglesby	Fifteenth	Concord.
J. L. Webb	Sixteenth	Shelby.
T. B. Finley	Seventeenth	Wilkesboro.
Michael Schenck	Eighteenth	Hendersonville.
P. A. McElroy	Nineteenth	Marshall.
Walter E. Moore	Twentieth	Sylva.

SPECIAL JUDGES

H. Hoyle Sink	Lexington.
Cameron F. MacRae	Asheville.
John H. Harwood	Bryson City.

EMERGENCY JUDGE

C. C. Lyon	Elizabethtown.

SOLICITORS

EASTERN DIVISION

Name	*District*	*Address*
Walter L. Small	First	Elizabeth City.
Donnell Gillam	Second	Tarboro.
R. H. Parker	Third	Enfield.
Clawson L. Williams	Fourth	Sanford.
D. M. Clark	Fifth	Greenville.
James A. Powers	Sixth	Kinston.
L. S. Brassfield	Seventh	Raleigh.
Woodus Kellum	Eighth	Wilmington.
T. A. McNeill	Ninth	Lumberton.
W. B. Umstead	Tenth	Durham.

WESTERN DIVISION

S. Porter Graves	Eleventh	Mount Airy.
J. F. Spruill	Twelfth	Lexington.
F. D. Phillips	Thirteenth	Rockingham.
John G. Carpenter	Fourteenth	Gastonia.
Zeb. V. Long	Fifteenth	Statesville.
L. Spurgeon Spurling	Sixteenth	Lenoir.
Jno. R. Jones	Seventeenth	N. Wilkesboro.
J. W. Pless, Jr.	Eighteenth	Marion.
Robt. M. Wells	Nineteenth	Asheville.
Grover C. Davis	Twentieth	Waynesville.

LICENSED ATTORNEYS

FALL TERM, 1927

List of applicants to whom license to practice law in North Carolina was granted by Supreme Court at Fall Term, 1927:

ADAMS, EDWARD ANDREW, JR.....Raleigh.
ALEXANDER, NAOMI.....Charlotte.
ARLEDGE, ISAAC CURTIS.....Hendersonville.
ATWATER, JAMES MATTHEW, JR.....Burlington.
BALDWIN, OSCAR STRATTON.....Lake City, S. C.
BARKLEY, HENRY BROCK.....Raleigh.
BATTEN, DANIEL MARCONI.....Charleston, S. C.
BEALL, MCPHERSON.....Durham.
BEDDINGFIELD, ALEXANDER EDWARD.....Raleigh.
BENNER, JOHN SAMUEL.....Raleigh.
BETHUNE, JAMES CAVE.....Clinton.
BOXLEY, SEDDON GLASGOW.....Louisa, Va.
BURNS, CLARENCE FRANKLIN.....Winston-Salem.
CAMERON, MALCOLM GRAEME.....Charlotte.
CAMPBELL, JOHN ARCHIBALD.....Washington, D. C.
CARTER, DOUGLAS.....Asheville.
CARTER, JAMES LOUIS.....Charlotte.
CARTER, ROBERT BURR.....Henderson.
DAVENPORT, JOSEPH BLOUNT.....Windsor.
DAVIS, LEMUEL HARDY.....Davis.
DUBOSE, MARION JOHN.....Little Switzerland.
EDWARDS, GEORGE WILLIAMS.....Snow Hill.
EGAN, WILLIAM MICHAEL.....Charlotte.
FIELD, ELMER EUGENE.....Washington, D. C.
FLAHERTY, PAUL.....Washington, D. C.
GASKILL, JULIAN THADDEUS.....Sea Level.
GILL, IRBY DOWE.....Zebulon.
GOLDBERG, AARON.....Wilmington.
GORDON, ELLA MARGARET.....Elizabeth City.
GRIFFIN, CHARLES THOMAS.....Edenton.
HALL, CLARENCE WINDLEY.....Newport.
HAMLIN, PAUL MAHLON.....Winston-Salem.
HINTON, ERNEST LYNWOOD.....Clayton.
HODGES, WILLIAM PARKER.....Williamston.
HOLT, PEARL ADAMS.....Greensboro.
HONEYCUTT, LOUISE STUART.....Raleigh.
HUBBARD, HOWARD HOLMES.....Clinton.
HUFF, RALPH POMEROY.....Washington, D. C.
IPOCK, EDWIN CHARLTON.....Goldsboro.
IVEY, THADDEUS, JR.....Cary.
IVIE, ALLAN DENNY, JR.....Leaksville.
JENNETTE, HUBERT BRYAN.....Raleigh.
JOHNSON, JOE WHEELER.....Mt. Airy.
JOHNSON, JOHN HICKS.....Raleigh.
JONAS, CHARLES RAPER.....Lincolnton.

Julian, Ira	Winston-Salem.
Kermon, Robert Merritt	Wilmington.
Kesler, John C	Spencer.
Kilburn, Henry Thomas	Washington, D. C.
Lee, Robert Earl	Kinston.
Locke, Howard Palmer	Washington, D. C.
Lonon, John Yancey	Marion.
McGregor, Thomas Henry	Washington, D. C.
McKeithan, Julian Harold	Aberdeen.
Madison, Arthur Walker	Raleigh.
Midyette, Samuel Buxton	Jackson.
Moore, Clifton Leonard	Burgaw.
Moore, John Henderson	Washington, D. C.
Morphew, Robert Bruce	Robbinsville.
Newton, John Clinton	Shelby.
Oliver, Claude Bernard	Durham.
Overby, Gilmore Claudius	Macon.
Parker, Frederick Pope, Jr.	Goldsboro.
Parris, Roscoe Euel	Raleigh.
Patrick, Bailey	Hickory.
Pearsall, Thomas Jenkins	Rocky Mount.
Perkinson, James Beard	Spencer.
Pickard, Dwight Luther	Lexington.
Pierce, Frank Grainger	Weldon.
Price, Edward Wesley	Charlotte.
Pritchard, John Shadrach	Washington, D. C.
Ray, Christopher Aloisius	Washington, D. C.
Roberts, James Wm. Holmes	Greenville.
Ruark, Samuel Westbrook	Raleigh.
Sanford, Ernest Percy	Washington, D. C.
Smith, Thomas Maybon	Raleigh.
Stack, Norman LeRoy	Durham
Stainback, Allen Nathaniel	Greensboro.
Stephenson, Harold Robert	Durham.
Strickland, Henry L	Charlotte.
Strong, John Moore	Raleigh.
Terrell, Marvin Clayton	Burlington.
Teu, Sanfjord Brogdyne	Godwin.
Tron, John Francis, Jr.	Valdese.
Tucker, John Archibald	Milton.
Upchurch, Frank Cleo	New Hill.
Wallach, Zena Lena	Washington, D. C.
Warren, Thomas LaFayette	Lenoir.
Westmoreland, Robert Sigsbee	Mt. Airy.
Whitener, Russell Winfield	Hickory.
Wilson, Robert Clarence	Washington, D. C.
Woodlief, Guy Forest	Wake Forest.
Woodson, Walter Henderson, Jr.	Salisbury.
Woolard, Jather Edward	Washington.

License granted to the following Comity Applicants:

Jackson, LeRoy (from South Carolina).
Thomas, Bradley Morris (from New Mexico).

CALENDAR OF COURTS

TO BE HELD IN

NORTH CAROLINA DURING THE SPRING TERM, 1928

SUPREME COURT

The Supreme Court meets in the city of Raleigh on the first Monday in February and the last Monday in August of every year. The examination of applicants for license to practice law, to be conducted in writing, takes place one week before the first Monday in each term.

The Judicial Districts will be called in the Supreme Court in the following order:

	Spring Term, 1928
First District	February 7
Second District	February 14
Third and Fourth Districts	February 21
Fifth District	February 28
Sixth District	March 6
Seventh District	March 13
Eighth and Ninth Districts	March 20
Tenth District	March 27
Eleventh District	April 3
Twelfth District	April 10
Thirteenth District	April 17
Fourteenth District	April 24
Fifteenth and Sixteenth Districts	May 1
Seventeenth and Eighteenth Districts	May 8
Nineteenth District	May 15
Twentieth District	May 22

SUPERIOR COURTS, SPRING TERM, 1928

The parenthesis numerals following the date of a term indicate the number of weeks during which the term may hold.

In many instances the statutes apparently create conflicts in the terms of court.

THIS CALENDAR IS UNOFFICIAL

EASTERN DIVISION

FIRST JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Barnhill.*

Camden—Mar. 12.
Beaufort—Jan. 16*; Feb. 20† (2); April 9†; May 7† (2).
Gates—Mar. 26.
Tyrrell—April 23.
Currituck—Mar. 5; April 30†.
Chowan—April 2.
Pasquotank—Jan. 2† (2); Feb. 13†; Mar. 19; June 4† (2); June 18.
Hyde—May 21.
Dare—May 28.
Perquimans—Jan. 23; April 16.

SECOND JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Midyette.*

Washington—Jan. 9 (2); April 16†.
Nash—Jan. 30; Feb. 20† (2); Mar. 12; April 23† (2); May 28.
Wilson—Feb. 6*; Feb. 13†; May 14*; May 21†; June 25†.
Edgecombe—Jan. 23; Mar. 5; April 2† (2); June 4 (2).
Martin—Mar. 19 (2); June 18.

THIRD JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Daniels.*

Northampton—April 2 (2).
Hertford—Feb. 27; April 16 (2).
Halifax—Jan. 30 (2); Mar. 19† (2); April 30* A; June 4 (2).
Bertie—Feb. 13 (2); April 30† (3).
Warren—Jan. 16 (2); May 21 (2).
Vance—Jan. 9*; Mar. 5*; Mar. 12†; June 18*; June 25†.

FOURTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Nunn.*

Lee—Mar. 26 (2); May 7.
Chatham—Jan. 16; Mar. 5†; Mar. 19†; May 14*; June 11.
Johnston—Feb. 20† (2); Mar. 12; April 23† (2); June 25*.
Wayne—Jan. 23†; Jan. 30; April 9† (2); May 28†; June 4.
Harnett—Jan. 9; Feb. 6† (2); April 2† A (2); May 21; June 18*.

FIFTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Grady.*

Pitt—Jan. 16†; Jan. 23; Feb. 20†; Mar. 19 (2); April 16 (2); May 21† (2).
Craven—Jan. 9*; Feb. 6† (2); April 9‡; May 14†; June 4*.
Carteret—Jan. 30; Mar. 12; June 11 (2).
Pamlico—April 30 (2).
Jones—April 2.
Greene—Feb. 27 (2); June 25.

SIXTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Harris*

Onslow—Mar. 5; April 16† (2).
Duplin—Jan. 9† (2); Jan. 30*; Mar. 26† (2).
Sampson—Feb. 6 (2); Mar. 12† (2); April 30 (2).
Lenoir—Jan. 23*; Feb. 20† (2); April 9; May 21*; June 11† (2).

SEVENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Cranmer.*

Wake—Jan. 9*; Jan. 30†; Feb. 6*; Feb. 13†; Mar. 5*; Mar. 12† (2); Mar. 26† (2); April 9*; April 16† (2); April 30†; May 7*; May 21† (2); June 4*; June 11† (2).
Franklin—Jan. 16 (2); Feb. 20† (2); May 14.

EIGHTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Sinclair.*

New Hanover—Jan. 16*; Feb. 6† (2); Mar. 5† (2); Mar. 19*; April 16† (2); May 14*; May 28† (2); June 11*.
Pender—Jan. 23; Mar. 26† (2); May 21.
Columbus—Jan. 30; Feb. 20† (2); April 30 (2).
Brunswick—Jan. 9†; April 9; June 18†.

NINTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Devin.*

Robeson—Jan. 30*; Feb. 6; Feb. 27† (2); April 2; April 9*; May 14† (2).
Bladen—Jan. 9†; Mar. 12; April 23†.
Hoke—Jan. 23; April 16.
Cumberland—Jan. 16*; Feb. 13† (2); Mar. 19† (2); April 30† (2); May 28*.

TENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Bond.*

Alamance—Feb. 27*; April 2†; May 7†; May 28† (2); June 18*.
Durham—Jan. 9† (2); Feb. 20*; Mar. 5† (2); Mar. 26*; April 30†; May 21*.
Granville—Feb. 6 (2); April 9 (2).
Orange—Mar. 19; May 14†; June 11.
Person—Jan. 30; April 23.

WESTERN DIVISION

ELEVENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Shaw.*

Ashe—April 9 (2).
Forsyth—Jan. 9 (2); Feb. 13† (2); Feb. 27 (2); Mar. 12† (2); Mar. 26*; May 21† (3); June 11; June 25† A.
Rockingham—Jan. 23*; Feb. 27† (2); May 14; June 18† (2).
Caswell—April 2; May 7† (A).
Alleghany—May 7.
Surry—Jan. 9† A (2); Feb. 6; Mar. 19† A (2); April 23 (2); June 25† A (2).

TWELFTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Stack.*

Davidson—Jan. 30*; Feb. 20† (2); May 7*; May 28†; June 25*.
Guilford—Jan. 9† (2); Jan. 23*; Feb. 6† (2); Feb. 20† A (2); Mar. 5* (2); Mar. 19† (2); April 2† A (2); April 16† (2); April 30*; May 14† (2); June 4† (2); June 18*.
Stokes—April 2*; April 9†.

THIRTEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Harding.*

Stanly—Feb. 6†; April 2; May 14†.
Richmond—Jan. 2†; Jan. 9*; Mar. 19†; April 9*; May 28†; June 18†.
Union—Jan. 30*; Feb. 20† (2); Mar. 26†; May 7†.
Anson—Jan. 16*; Mar. 5†; April 16† (2); June 11†.
Moore—Jan. 23*; Feb. 13†; May 21†.
Scotland—Mar. 12†; April 30; June 4.

FOURTEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Oglesby.*

Mecklenburg—Jan. 9*; Feb. 6† (3); Feb. 27*; Mar. 5† (2); April 2† (2); April 30† (2); May 14*; May 21† (2); June 11*; June 18†.
Gaston—Jan. 16*; Jan. 23† (2); Mar. 19† (2); April 16*; June 4*.

FIFTEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Webb.*

Montgomery—Jan. 23*; April 9† (2).
Randolph—Mar. 19† (2); April 2*.
Iredell—Jan. 30 (2); Mar. 12†; May 21 (2).
Cabarrus—Jan. 9 (2); Feb. 27†; April 23 (2).
Rowan—Feb. 13 (2); Mar. 5†; May 7 (2).

SIXTEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Finley.*

Catawba—Jan. 16† (2); Feb. 6 (2); May 7† (2).
Lincoln—Jan. 23 A (2).
Cleveland—Jan. 9; Mar. 26 (2).
Burke—Mar. 12 (2); June 4† (2).
Caldwell—Feb. 27 (2); May 21† (2).

SEVENTEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Schenck.*

Alexander—Feb. 20.
Yadkin—Feb. 27*; May 14† (2).
Wilkes—Mar. 5 (2); June 4† (2).
Davie—Mar. 19; May 28†.
Watauga—Mar. 26 (2).
Mitchell—April 9 (2).
Avery—April 23 (2).

EIGHTEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge McElroy.*

Transylvania—Jan. 30*; April 2 (2).
Henderson—Jan. 16 (2); Mar. 5 (2); April 30† (2); May 28† (2).
Rutherford—Feb. 6† (2); May 14 (2).
McDowell—Jan. 9*; Feb. 20† (2); June 11 (3).
Yancey—Mar. 19 (2).
Polk—April 16 (2).

NINETEENTH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Moore.*

Buncombe—Jan. 9† (2); Jan. 23; Jan. 30; Feb. 6† (2); Feb. 20; Mar. 5† (2); Mar. 19; April 2† (2); April 16; April 30† (3); May 21; June 4† (2); June 18 (2).
Madison—Feb. 27; Mar. 26; April 23; May 28.

TWENTIETH JUDICIAL DISTRICT

SPRING TERM, 1928—*Judge Deal.*

Haywood—Jan. 9† (2); Feb. 6 (2); May 7†.
Cherokee—Jan. 23† (2); April 2 (2); June 18†.
Jackson—Feb. 20 (2); May 21† (2).
Swain—Mar. 5 (2).
Graham—Jan. 9† A (2); Mar. 19 (2); June 4† (2).
Clay—April 30; May 7† A (2).
Macon—April 16 (2).

*For criminal cases only.
†For civil cases only.
‡For jail and civil cases.
A Special Judge to be assigned.

UNITED STATES COURTS FOR NORTH CAROLINA

DISTRICT COURTS

Eastern District—Isaac M. Meekins, *Judge*, Elizabeth City.
Middle District—Johnson J. Hayes, *Judge*, Greensboro.
Western District—Edwin Yates Webb, *Judge*, Shelby.

EASTERN DISTRICT

Terms—District courts are held at the time and place as follows:

Raleigh, fourth Monday after fourth Monday in April and October, and a two weeks civil term beginning on the second Monday in March. S. A. Ashe, Clerk.

Elizabeth City, second Monday in April and October. J. P. Thompson, Deputy Clerk, Elizabeth City.

Washington, third Monday in April and October. J. B. Respess, Deputy Clerk, Washington.

New Bern, fourth Monday in April and October. George Green, Deputy Clerk, New Bern.

Wilmington, second Monday after the fourth Monday in April and October. H. H. Ford, Deputy Clerk, Wilmington.

Fayetteville, on the fourth Monday in March and September. S. A. Ashe, Clerk, Raleigh.

Wilson, first Monday in April and October. S. A. Ashe, Clerk, Raleigh.

OFFICERS

Irvin B. Tucker, United States District Attorney, Whiteville.
Willis G. Briggs, Assistant United States District Attorney, Raleigh.
R. W. Ward, United States Marshal, Raleigh.
S. A. Ashe, Clerk United States District Court, Raleigh.

MIDDLE DISTRICT

Terms—District courts are held at the time and place as follows:

Greensboro, first Monday in June and December. R. L. Blaylock, Clerk; Myrtle Dwiggins, Chief Deputy; Delia Butt, Deputy; Cora Babington, Deputy.

Rockingham, first Monday in March and September. R. L. Blaylock, Clerk, Greensboro.

Salisbury, third Monday in April and October. R. L. Blaylock, Clerk, Greensboro.

Winston-Salem, first Monday in May and November. R. L. Blaylock, Clerk, Greensboro.

Wilkesboro, third Monday in May and November. Milton McNeill, Deputy Clerk.

OFFICERS

E. L. Gavin, United States District Attorney, Greensboro.
R. G. Bingham, Assistant United States Attorney, Winston-Salem.
J. J. Jenkins, United States Marshal, Greensboro.
R. L. Blaylock, Clerk United States District Court, Greensboro.

WESTERN DISTRICT

Terms—District courts are held at the time and place as follows:

Asheville, second Monday in May and November. J. Y. Jordan, Clerk; Oscar L. McLurd, Chief Deputy Clerk; William A. Lytle, Deputy Clerk.

Charlotte, first Monday in April and October. Fan Barnett, Deputy Clerk.

Statesville, fourth Monday in April and October. Sarah Leinster, Deputy Clerk.

Shelby, fourth Monday in September and third Monday in March. Fan Barnett, Deputy Clerk, Charlotte.

OFFICERS

Thomas J. Harkins, United States Attorney, Asheville.
Frank C. Patton, Assistant United States Attorney, Asheville.
Thos. C. McCoy, Assistant United States Attorney, Asheville.
Brownlow Jackson, United States Marshal, Asheville.
J. Y. Jordan, Clerk United States District Court, Asheville.
Chas. E. Green, Assistant United States Attorney, Bakersville.

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